

The Administrative Law Judge awarded claimant permanent partial disability benefits based upon a 9 percent functional impairment to the body. Claimant requested this review and contends he is entitled to an award for work disability. Nature and extent of disability is the sole issue now before the Appeals Board on this review.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the entire record, the Appeals Board finds as follows:

The Award entered by the Administrative Law Judge should be affirmed.

The Appeals Board finds claimant has failed to establish that he is entitled to an award based upon work disability. The Appeals Board agrees with the conclusion of the Administrative Law Judge that claimant was terminated for reasons unrelated to his work-related injury and that claimant did not put forth an honest effort to return to work for the respondent at a job offering a comparable wage.

There is much dispute surrounding the facts of claimant's return to work for the respondent in September 1992 after his March 16, 1992 work-related injury. There is also conflicting evidence whether the respondent placed claimant in a position which required him to violate his permanent work restrictions. However, the Appeals Board finds claimant voluntarily quit work without making a good-faith effort to either perform the job respondent provided or to address the situation either with his supervisor or respondent's medical or personnel departments. The Appeals Board finds that claimant's union steward advised him to contact either respondent's medical or personnel departments to address the problem but claimant did not follow the suggested procedure and chose to quit work.

Further, although claimant's version of the facts surrounding his return to work and termination might support an award based upon work disability, his testimony is controverted in a number of important instances by the other witnesses which, in turn, adversely affects his credibility. The Appeals Board finds the Administrative Law Judge's analysis of the facts and conclusions to be accurate and hereby adopts those as its own to the extent that they are not inconsistent with the above findings.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award entered by Administrative Law Judge John D. Clark dated August 22, 1995 should be, and hereby is, affirmed.

IT IS SO ORDERED.

Dated this ____ day of May 1996.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Philip W. Unruh, Harper, KS
Frederick L. Haag, Wichita, KS
Kurt Ratzlaff, Wichita, KS
John D. Clark, Administrative Law Judge
Philip S. Harness, Director